

Message Text

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PAGE 01 ATHENS 03260 301700Z

43

ACTION EUR-25

INFO OCT-01 ISO-00 L-03 NEA-14 H-03 CIAE-00 PM-07 INR-10

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P R 301530Z MAY 74

FM AMEMBASSY ATHENS

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E.O. 11652: N/A

TAGS: MARR, GR, US

SUBJECT: TRIAL OF U.S. MILITARY PERSONNEL BY
GREEK COURTS-MARTIAL

REFS: (A) STATE 093849; (B) CSAF 121930Z APR 74;
(C) ATHENS 2211

1. ON MAY 16, AMBASSADOR WROTE PERSONAL LETTER TO FONMIN TETENES STRESSING PROBLEMS FOR US-GREEK RELATIONS WHICH FURTHER TRIALS OF U.S. MILITARY MEMBERS BEFORE GREEK COURTS-MARTIAL LIKELY TO CREATE. UNDER COVER OF THIS LETTER, AMBASSADOR SENT TO TETENES NOTE OF OFFICIAL PROTEST DRAWN FROM REFTELS A AND B.

2. FONMIN TETENES ADDRESSED RESPONSE TO AMBASSADOR ON MAY 23 WHICH, IN TURN, COVERED FONOFF REPLY TO EMBASSY NOTE. NOTE SETS FORTH FONOFF POSITION THAT "...ART. VII, PARAGRAPH 1 (B) OF THE NATO SOFA MAKES NO DISTINCTION AS
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PAGE 02 ATHENS 03260 301700Z

TO THE TRIBUNAL OF THE RECEIVING STATE BEFORE WHICH THE

MEMBERS OF THE FORCES OF THE SENDING STATE ARE TO BE TRIED." FONOFF NOTE ADDS THAT "...THE NEGOTIATING HISTORY OF THE AGREEMENT DOES NOT INDICATE THAT ONE OR THE OTHER TYPES OF TRIBUNALS OF THE RECEIVING STATE WERE TO BE EXCLUDED IN THE TRIAL OF MILITARY OR CIVILIAN PERSONNEL OR THEIR DEPENDENTS OF THE SENDING STATE. THE MATTER OF JURISDICTION OF A SPECIFIC COURT OF THE RECEIVING STATE WAS THUS LEFT TO BE DETERMINED, AS USUAL, ACCORDING TO THE DOMESTIC LAW OF THE RECEIVING STATE, WHOSE JURISDICTION WAS RECOGNIZED BY THE AFOREMENTIONED ARTICLE 7, PARAGRAPH 1(B)." OPERATIVE PORTION OF NOTE CONCLUDES WITH STATEMENT THAT "THIS MINISTRY CANNOT, THEREFORE, ACCEPT THE PROTEST MADE....IN THIS CONNECTION."

3. FONMIN TETENES' LETTER ASSURES AMBASSADOR THAT, AS REQUESTED BY AMBASSADOR IN HIS LETTER, HE (TETENES) HAD GIVEN CAREFUL CONSIDERATION TO AMBASSADOR'S LETTER AND OUR NOTE OF PROTEST. AFTER INDICATING THAT FONOFF NOTE OF RESPONSE (PARA 2 ABOVE) ENCLOSED, TETENES WROTE THAT "IN THIS CONNECTION, I WOULD LIKE TO ADD THAT IT IS MY INTENTION TO EXAMINE THE SUBSTANCE OF THE MATTER RAISED IN YOUR LETTER AND IN THE EMBASSY'S NOTE IN A FRIENDLY SPIRIT AND ONE OF MUTUAL UNDERSTANDING. WERE, THEREFORE, THE EMBASSY TO ADDRESS THE MINISTRY A SEPARATE REQUEST ASKING THAT MEMBERS OF UNITED STATES FORCES NOT BE ARRAIGNED BEFORE GREEK COURTS-MARTIAL, I SHALL ENDEAVOR TO HAVE IT FAVORABLY TAKEN UP BY THE COMPETENT AUTHORITIES."

4. DURING MAY 27 MEETING WITH FONMIN TETENES AMBASSADOR EXPLAINED THAT USG DID NOT ACCEPT GOG INTERPRETATION OF NATO SOFA, AS SET FORTH IN FONOFF NOTE OF MAY 23. HE NOTED THAT IN NO OTHER NATO COUNTRY WERE ATTEMPTS MADE TO TRY VISITING FORCES' MEMBER BEFORE COURTS-MARTIAL OF RECEIVING STATE AND POINTED OUT THAT THE LEGISLATIVE HISTORY OF THE ACCEPTANCE OF THE NATO SOFA BY THE US CONGRESS MAKES CLEAR THAT THIS MANNER OF EXERCISE OF RECEIVING STATE'S JURISDICTION NEVER CONTEMPLATED. TETENES IN COMMENTING ON AMBASSADOR'S DISCUSSION OF ISSUE SEEMED TO SUGGEST AMENABILITY OF GREEK MILITARY TO ACCEPTANCE OF U.S. POSITION.

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PAGE 03 ATHENS 03260 301700Z

5. ON ASSUMPTION THAT THIS AMENABILITY EVENTUALLY WILL TAKE CONCRETE FORM AT WORKING LEVEL OF FONOFF, EMBOFFS WILL MAKE LOWER LEVEL APPROACH TO ASCERTAIN WHETHER THIS HAS YET OCCURRED. IF NOT, EMBOFFS WILL ASK FONOFF TO REVIEW ITS LEGAL POSITION. FURTHER REPORT WILL FOLLOW.
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